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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,682	10/11/2001	Gary J. Pond	4285.17565	1116

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RYAN KROMHOLZ & MANION, S.C.  
POST OFFICE BOX 26618  
MILWAUKEE, WI 53226

EXAMINER
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LAM, ANN Y

ART UNIT	PAPER NUMBER
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1641

DATE MAILED: 01/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/976,682

**Applicant(s)**

POND, GARY J.

**Examiner**

Ann Y. Lam

**Art Unit**

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-8, 11, 16-18 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6, 11, 16-18 and 20-25 is/are allowed.
- 6) ☒ Claim(s) 2-5, 7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2-5, 7 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Stanners et al., 5,330,440.

Stanners et al. disclose a syringe body (9) having a means (see slot in Figure 10 and Figure 14a) for receiving a cartridge, the cartridge receiving means comprising an elongated, exposed, longitudinal slot extending coaxially relative to and inwardly of the syringe body, said slot being located between the open proximal end and the oppositely spaced open distal end of the syringe body; a plunger (2) within the syringe body, a barrel (i.e. carpule) in Figure 14a, and see column 8, lines 45-46) slidably received in the hollow interior of the syringe body, the barrel having an open end positioned opposite a protrusion adapted to pierce a diaphragm of the cartridge, and a needle (distal end of 58).

As to claim 3, an o-ring (6a) is positioned on the barrel to create a removable seal between the barrel and the syringe body.

As to claims 4, 5, the plunger further comprises a means for providing a breakaway feature (2a and 7a), said means including a line of weakness on the plunger.

As to claim 7, a finger rest (1) and handle (3) are disclosed.

As to claim 8, the plunger is comprised of a looped member (1).

### ***Response to Arguments***

Applicant's arguments with respect to the above rejected claims have been considered but are moot in view of the new ground(s) of rejection.

Stanners discloses a slot as claimed that is capable of receiving a cartridge.

### ***Allowable Subject Matter***

Claims 6, 11, 16-18, 20-25 are allowed. The following is a statement of reasons for the indication of allowable subject matter: the combination of elements including a means for retracting a needle, a barbed member carried by a protrusion, said protrusion and said barbed member having concentric hollow interiors; and a gripping feature located on the plunger, said gripping feature adapted to engage the barb.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Firth et al., RE37,439, and Farkas, 5,217,436, both disclose a syringe with a slot to insert a cartridge. Haber et al., 5,445,620, Knight, 3,556,099, and van den Haak, 5,380,286, both disclose a retractable syringe with a cartridge.

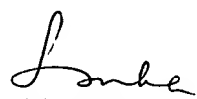
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on M-Sat 11-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le can be reached on (703)305-3399. The fax phone number for the organization where this application or proceeding is assigned is (703)308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0196.

A.L.



  
LONG V. LE  
SUPERVISOR, PATENT EXAMINER  
TO: 1641, 1000

01/10/04